

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SFR SERVICES, LLC,

Plaintiff,

v.

Case No: 2:19-cv-229-FtM-29NPM

LEXINGTON INSURANCE
COMPANY,

Defendant.

ORDER

This matter is before the Court on the Motion to Compel Production of Documents in Compliance With Non-Party Subpoena, filed on February 6, 2020. (Doc. 46). Defendant Lexington Insurance Company seeks to have the Court compel non-party Coronado Condominium Owners Association, Inc. to produce documents related to an insurance claim. (*Id.* at 1). Lexington claims that Coronado did not object to the subpoena, file a protective order, or produce any of the requested documents. (*Id.* at 1-2). Lexington therefore seeks an order compelling Coronado to comply with the subpoena and also seeks attorney's fees and costs in bringing this motion.

The Court finds two problems with this motion. First, there is no indication that Lexington served a copy of this motion to compel on Coronado or its counsel. As a result, Coronado has no notice of this motion and no opportunity to respond.

Second, Lexington's Local Rule 3.01(g) Certification is inadequate. Lexington certified that it conferred with Plaintiff's counsel concerning the motion and Plaintiff's counsel does not oppose the relief. However, Local Rule 3.01(g) requires before filing a motion, that "the moving party shall confer with counsel for the opposing party in a good

faith effort to resolve the issues raised by the motion, and shall file with the motion a statement,” certifying the moving party conferred with opposing counsel and stating whether counsel agree on a resolution of the motion. M.D. Fla. R. 3.01(g). The opposing party to this motion is Coronado, and the motion lacks any indicia that Lexington conferred directly with Coronado or its counsel.

Accordingly, it is hereby **ORDERED**:

The Motion to Compel Production of Documents in Compliance With Non-Party Subpoena (Doc. 46) is **DENIED** without prejudice to be refiled with a certificate of service showing service on Coronado and with a certificate pursuant to Local Rule 3.01(g) describing efforts to resolve the issues raised with Coronado or its counsel.

DONE and **ORDERED** in Fort Myers, Florida on February 7, 2020.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties